

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (**REF NO:** **AW/266/13/T****LOCATION:** Mariners
 56 Aldwick Avenue
 Aldwick**PROPOSAL:** Reduce height and spread of 1 No Oak tree by 2-3 metres**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above.
TOPOGRAPHY	Predominantly flat.
TREES	The tree the subject of this application. There are some other small trees along the Aldwick Avenue boundary.
BOUNDARY TREATMENT	The boundary to Aldwick Avenue is a part flint wall/part fence panels to approx. 1.7m in height.
SITE CHARACTERISTICS	Narrow strip of garden/amenity land to the side of this apartment building. The building itself is very large, 2-3 storeys in height and constructed in white render, black weather boarding and tiles.
CHARACTER OF LOCALITY	Residential area. Aldwick Avenue terminates at this point such that there is no vehicular access onto Fish Lane.

RELEVANT SITE HISTORY

AW/48/05/	Outline application for demolition of existing dwelling & erection of 12 flats	Refused 22-04-2005
AW/200/05/	Outline application for the conversion and extension of existing dwelling into 10 flats. Re-submission of application AW/48/05	ApproveConditionally 26-10-2005
AW/307/06/	Conversion and extension of existing dwelling into 9 No apartments and associated external works	ApproveConditionally 14-03-2007
AW/260/07/	Amendment to previously approved application AW/307/06/ (conversion and extension of existing dwelling into 9 apartments and associated works) - for additional one bedroom flat	ApproveConditionally 06-02-2008
BR/786/74/T	Lopping of elm tree	ApproveConditionally 08-01-1975

AW/119/08/	Conversion of existing house and new extension to provide 10 no. self contained flats. Amendments to approved application AW/260/07/	ApproveConditionally 11-07-2008
AW/247/08/	2No. two bedroom apartments within the grounds of the existing development approved under reference AW/119/08 currently under construction.	Refused 23-12-2008

None relevant.

REPRESENTATIONS

Representations received:

Aldwick Parish Council

Aldwick Parish Council - No objection. Members agreed that the Arun Arboriculturist be consulted and that his recommendations applied.

Comments on Representations received:

Noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Council's Arboriculturist - "Previously pollarded at 3m from ground level this trees current crown is re-formed from the regrowth. It has been pruned to clear back from the balcony and stubs left from this work which have re-flushed and hence made matters worse because a mass of growth arises from each cut surface. The crown itself comprises 7m (depth) and to reduce 2m to 3m of this would equate to around 40-50% reduction which would be too severe contrary to British Standard 3998 as well as Arun District Local Plan policy GEN7 and likely to be detrimental to the ongoing health and vitality of this tree exposing numerous large open wounds to the possibility of fungal infection. I recommend refusal as the work proposed is contrary to British Standard 3998 as well as Arun District Local Plan policy GEN 7 and likely to be detrimental to the ongoing health and vitality of this tree. I do sympathise with their situation and recommend that they re-apply for the following works:- Reduce and reshape overall by no more than 1m in height and a maximum of 2m in lateral spread - except for the longer laterals to the west and north sides which can be reduced by 3m in length to bring them back in line with the general outline of the pruned crown."

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within the Built Up Area Boundary; and
Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX1

Circular 36/78

XXX2

DETR TPO's A guide to Law and Good Practice

POLICY COMMENTARY

The above policies are general and, other than Circular 36/78 and DETR TPOs, are not specific to trees.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 198 of the Town and Country Planning Act 1990 states:

"If it appears to a Local Planning authority that it is expedient in the interest of amenity to make provision for the preservation of trees.... they may for that purpose make an order"

The works to the trees are to be judged having regard to amenity.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

This application concerns a large Oak tree which is located between a large apartment building and the boundary with Aldwick Avenue. The tree is currently touching the building and is considered to block out light during the summer months. However, the Council's arboriculturist does not consider that the proposed works are acceptable and that they would, if approved, have a detrimental impact on the health and vitality of the tree. Instead, the council's arboriculturist suggests a set of works which would be acceptable and it is recommended that the applicant re-apply in accordance with these recommendations.

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 The tree is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. The tree surgery proposed in the application is contrary to British Standard 3998, would result in excessive reduction of the tree's landscape impact, undue detriment to the visual amenities of the locality and be detrimental to the ongoing health & vitality of the tree.